

STATEMENT BY
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DEPUTY SPECIAL REPRESENTATIVE OF THE PRESIDENT
FOR THE CONFERENCE ON THE LAW OF THE SEA AND UNITED
STATE REPRESENTATIVE TO THE THIRD UNITED NATIONS
CONFERENCE ON THE LAW OF THE SEA
BEFORE THE SENATE FOREIGN RELATIONS COMMITTEE,
SUBCOMMITTEE ON OCEANS AND INTERNATIONAL ENVIRONMENT
Thursday, May 22, 1975

Mr. Chairman:

It is an honor and a pleasure to again appear before this Subcommittee to report on the progress made at the recently concluded Geneva session of the Third United Nations Conference on the Law of the Sea. Before turning to the substance of my report, I would like to thank you and the other members of this Committee who came to Geneva and participated in the work of the Delegation. Whatever our differences have been on the timing of specific interim legislation, Congress and the Executive have been united on the importance of a timely and successful Law of the Sea Treaty which fully protects the vital interests of the United States and the world community as a whole. Your cooperation and support has been of particular assistance in moving toward that goal. For our part, we recognize that the formulation of United States' ocean's policy is a shared responsibility between Congress and the Executive and we are determined to make the law of the sea a model of cooperative partnership.

State Dept. review completed

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In previous testimony before this Committee, I have indicated that there were reasonable prospects of adhering to the General Assembly schedule and completing the work of the Conference during 1975. Indeed, this timing has been a cornerstone of our interim policy. I regret to report to you that I was wrong and that this schedule was overly optimistic. It is now clear that the negotiations cannot be completed before mid 1976 at the earliest and at this time it is not clear whether or not a treaty can be completed during 1976. The Conference has agreed to recommend to the General Assembly that the next session be held for eight weeks beginning on March 29, 1976 and that the Conference then decide whether an additional session is needed during the summer of 1976. Though such a schedule could conclude a treaty during 1976 if there is sufficient will to do so, I would not be frank with this Committee if I did not express my disappointment that a target date to conclude a treaty was not agreed by the Conference despite what seems to be a majority sentiment for conclusion during 1976.

In the light of this timing problem we are now conducting a thorough reevaluation of our interim policy to ensure that the necessary balance is found between our broad interest in a multilateral resolution of oceans'

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problems and our more immediate needs, particularly the protection of coastal fisheries stocks and access to the raw materials on the seabed. This reevaluation will take into account the strong preference of many members of Congress for an extension of coastal fisheries jurisdiction to 200 miles, the nearly universal acceptance by the Conference of the 200-mile economic zone, and the need to construct an interim policy which encourages the timely conclusion of a comprehensive Law of the Sea Treaty in the interests of all nations.

Because of the concern of many members of Congress with our immediate oceans' needs during the next few weeks I and others will be consulting closely with this and other interested committees of both Houses. As a responsible nation and a good neighbor, we will also be consulting with our immediate neighbors and other affected nations.

We hope to complete our study and consultations by, or soon after, the August Congressional recess at which time we will submit to the Congress not only our recommendations concerning interim legislation, but also a full and frank evaluation of the factors that we have weighed. This evaluation will not be a brief for our

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conclusions, whatever they may be. Rather, it will be as objective as possible and will lay before you the many factors which both the Congress and the Executive must weigh.

We wish to make clear that we do not preclude any particular result to our reevaluation, including the principal proposals now pending before you. We ask only that together we plan an interim policy which will be most effective in meeting our interim oceans needs and encouraging a satisfactory long-run solution through a comprehensive Law of the Sea Treaty.

Despite the disappointment with respect to the pace and timing of the Conference work program, the Geneva session made progress and, in some respects, substantial progress. Most significantly, the will to negotiate, which had been largely missing at Caracas, was in greater, if not universal, evidence. There was no general debate and negotiations in small, informal groups of principally interested states largely replaced less useful restatements of positions in the Committees of the whole. This increased will to negotiate led directly to the most important achievement of the session: the preparation of a single negotiating text on virtually all subjects before the Conference. This informal single

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text has been given to your Committee Staff for inclusion in the record of this Hearing, if you so desire. The single text was prepared by the Chairman of each of the three Committees pursuant to a formal Conference decision. Although the single text is not a fully negotiated or consensus document, it is in important respects, at least in regard to Committees II and III, an indication of an overall package necessary for a satisfactory treaty. Moreover, in many areas, for example the articles on baselines, innocent passage in the territorial sea, the high seas, and many general articles on the protection of the marine environment, for the most part the single text reflects broad consensus. On other issues, for example the economic zone and transit of straits, it largely reflects areas of broad support negotiated within informal working groups. In some other respects, particularly in Committee I which deals with the difficult problem of a regime and machinery for deep seabed mining, in our opinion the single text did not reflect the kind of accommodation necessary for agreement.

Even though it is not a negotiated or consensus text, the preparation of the single text is a significant

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and necessary step toward a treaty. For the first time, the Conference will be able to focus on a specific text rather than a multitude of alternatives and national proposals. And for the first time it will be possible to study the overall relationships inherent in a comprehensive package agreement. Though no government, including our own, will be completely satisfied with the content of the single text, it now makes more rapid Conference progress possible. I believe that for the most part, at least for the work of Committees II and III, it also reflects a widely shared view about the nature of the overall package in a manner conducive to the achievement of a realistic and widely acceptable Treaty.

Of particular interest to you and other members of this Committee concerned with the need for greater protection of coastal fisheries, the single text in Committee II strongly confirms coastal State conservation and management jurisdiction over coastal species of fish out to 200 miles and provides realistic protection for anadromous stocks within and beyond 200 miles. While the text also contains recognition of the need for international management of highly migratory species, informal negotiations have not yet produced the same degree of consensus evident with

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respect to coastal and anadromous stocks.

The Conference on the Law of the Sea is one of the most complex and important negotiations in our history. It touches the raw nerves of national interests in almost all nations of the world, and particularly of the United States which has perhaps the largest and most diverse oceans interests of any nation. Our disappointment at the pace of the negotiations is genuine and requires a careful re-thinking of our interim policy. But it is equally necessary in reformulating a realistic interim policy that we not lose sight of our shared commitment to a comprehensive treaty. A treaty which fully protects the vital interests of the United States and of the world community as a whole is in the interest of all nations. We will continue to do our part to encourage such an agreement.

As we begin the detailed analysis of the single text it is particularly important that we keep in mind the vision with which this Conference was founded: creation of a truly universal oceans law in the common interest of all nations. A successful Conference on the law of the sea will mean more than protection of fisheries, navigation, the oceans

environment and access to mineral resources, as important as these interests are to all nations. Rather it will also mean a substantial reduction of oceans disputes among nations and that cooperation among all nations in the solution of global problems is possible as well as necessary. These are considerations which must not be set aside as we review the more detailed issues.

I believe that the common purpose that has sustained the Law of the Sea negotiations through its difficult, time-consuming early stages is intact. That purpose is the shared conviction of leaders from all parts of the world that law, not anarchy, will best serve man's future in the oceans. The real problems of nations that make this negotiation difficult will not disappear if we do not succeed; they will become worse. There are, of course, basic differences in national interest and the sense of urgency of resolving our oceans' problems, as well as basic differences or perception on how best to protect common interests. But no one, I believe, would willingly choose the course of chaos in which even great power prevails at great cost.

Thank you, Mr. Chairman.